

## **REMARKS**

Claims 56-57 have been canceled without prejudice or disclaimer.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

### **I. Priority**

Applicants acknowledge with appreciation that the Examiner states that the claims are entitled to the benefit of both US 60/515,000 and DK 2003 01562. Applicants respectfully submit, however, that the filing date of DK 2003 01562 is October 23, 2003 rather than October 28, 2003 as stated in the Office Action. Acknowledgement of the same in the next Office Communication is respectfully requested.

### **II. The Rejection of Claims 56-57 under 35 U.S.C. 112, Second Paragraph**

Claims 56-57 stand rejected under 35 U.S.C. 112, second paragraph as allegedly being indefinite. This rejection is respectfully traversed.

Solely to expedite prosecution, Applicants have canceled claims 56-57, thereby obviating the rejection.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 112, second paragraph. Applicants respectfully request reconsideration and withdrawal of the rejection.

### **III. The Rejection of Claims 46-59 and 62-64 under 35 U.S.C. 102**

Claims 46-59 and 62-64 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated for the same reasons as previously recited for claims 29-39 and 42-43. To summarize, the claims stand rejected as allegedly anticipated by Isono et al., USPN 3,655,570 ("Isono et al.") as evidenced by Isono et al. and Esaki et al., Arch. Microbiol., 161:110-115 (1994) ("Esaki et al."). In particular, in the outstanding and prior Office Actions, relying on Example 6/Table 5 of Isono et al., the Examiner states that Isono et al. teach an alkaline protease isolated from *Fusarium solani* (IFO 5232) that shows activity in a detergent composition. Esaki et al. is cited to support the proposition that Isono's *F. solani* alkaline protease has thermostability since an aminotransferase from *F. solani* has thermostability. The Examiner acknowledges that Isono et al. provide no characterization of the proteases isolated from *F. solani*, and states that no

evidence was provided that any of the proteases isolated from *F. solani* were alkaline proteases. The Examiner further states that the evidence provided in Table 5 of Isono et al. was obtained using a culture supernatant, which would contain all proteases produced by the *F. solani*, which is the strain used by Applicants. Therefore, the Examiner concludes, the skilled artisan would believe that, more likely than not, one or more of Isono's proteases isolated from *F. solani* strains is the same as the protease of SEQ ID NO: 2 now claimed by Applicants. Finally, the Examiner states that Applicants' prior arguments have been considered but are not persuasive. This rejection is respectfully traversed.

The Isono et al. patent, which is assigned on its face to Takeda Chemical Industries, Ltd., discloses cultivation of strains of alkaline protease-producing microorganisms belonging to the genus *Fusarium*. *Fusarium solani* (IFO 5232) and *Fusarium* sp. S-19-5 (IFO 8884) are described as typical microorganisms producing the alkaline protease. See generally, Isono et al., col. 2, lines 30-44.

As a preliminary matter, Applicants respectfully submit that the Examiner no longer appears to maintain a rejection of the instant claims on the basis of Isono et al.'s disclosure of *Fusarium* sp. S-19-5 (IFO 8884). If another position is intended, Applicants respectfully request that the Examiner so clarify in the next Office Communication.

With regards to the Isono et al. disclosure of *Fusarium solani* (IFO 5232), Applicants incorporate by reference in the entirety their prior arguments traversing the rejection, and provide the following additional comments, as well as the Declaration of Dr. Jürgen Knötz Under 37 CFR 1.132 ("Knötz Declaration") submitted herewith.

Example 6 and Table 5 of Isono et al. state that "[i]n the same manner as in Example 1," *F. solani* (IFO 5232) is cultivated, the culture is centrifuged to give supernatant fluid which is used as an enzyme solution, and enzyme activity with and without detergent is demonstrated from this alkaline protease-producing microorganism. See Isono et al., Example 6 and Table 5 (col. 7, line 41 to col. 8, line 5, reproduced below for the Examiner's convenience). In particular, Table 5 at col. 7, lines 68-69 demonstrates that protease activity is measurable in an *F. solani* fermentation broth both in the absence of and in the presence of LAS-detergent.

### EXAMPLE 6

In the same manner as in Example 1, several microorganisms belonging to the genus *Fusarium* and the genus *Gibberella* are cultivated for 6 days.

The cultures are then centrifuged to give supernatant fluids which are used as enzyme solutions. To 2,000 parts by volume each of the enzyme solutions are added 5 parts by weight of the LAS-detergent described in Example 4, and protease activity of the resulting solution is determined by the specified assay method. The results are set forth in Table 5 indicating that the LAS-detergent does not inhibit any activity of the enzymes produced by those alkali protease-producing microorganisms.

TABLE 5

Mircoorganism	Enzyme Activity (PU/ml) with detergent	without detergent
<i>Fusarium oxysporum</i> (IFO 5942) (ATCC 659)	200.8	199.2
<i>Fusarium oxysporum f. lini</i> (IFO 5880)	550.5	553.8
<i>Fusarium oxysporum f. niveum</i> (IFO 4471)	315.8	307.2
<i>Fusarium solani</i> (IFO 5232)	230.2	235.0
<i>Gibberella fujikuroi</i> (IFO 5268)	73.2	75.6
<i>Gibberella saubinetii</i> (IFO 6608) (ATCC 20193)	530.2	523.4

Isono et al. characterize the results of Table 5 as "indicating that the LAS-detergent does not inhibit any activity of the enzymes produced by those alkali protease-producing microorganisms." See col. 7, lines 51-54 (emphasis added). Indeed, the enzymes produced by *F. solani* (IFO 5232) show enzyme activity of 230.2 PU/mL with detergent as compared to 235.0 PU/ml without detergent. In other words, the proteases of the *F. solani* (IFO 5232) have essentially 100% residual activity in the presence of LAS-detergent.

In direct contrast, as determined in the Knötzel Declaration, the *F. solani* protease of SEQ ID NO: 2 has essentially no activity in the presence of LAS-detergent. In other words, the LAS-detergent inhibits any activity of the claimed trypsin-like protease. See, Knötzel Declaration, Paragraph 8.

The results outlined in the Knötzel Declaration were obtained by reproducing the experimental protocol of Isono et al. and testing Applicants' claimed protease in the presence of

LAS-detergent. As noted in the Knötzl Declaration, LAS-detergent (also called Detergent 1) was prepared according to Example 6 and Table 1 of Isono et al. in order to include 25% of LAS (surfactant), 40% sodium tri-phosphate, 29% sodium sulphate, 5% sodium silicate and 1% carboxymethyl cellulose. Compare Knötzl Declaration, Paragraph 5 with the ingredient listing of Table 1 of Isono et al.

The activity of the claimed *F. solani* trypsin protease of SEQ ID NO: 2 and of a control trypsin protease known to have activity in the presence of LAS-detergent was then evaluated in the presence of TRIS pH 11 buffer and in the prepared LAS-detergent following the experimental protocol of Isono et al. The control trypsin protease is from the same family (S1A) as the *F. solani* trypsin protease, is known to have wash performance in LAS-containing detergents, and was included in order to see at which concentrations a trypsin protease would work in the Isono assay, because it is not clear at which concentration the proteases are measured in Isono et al. Knötzl Declaration, Paragraph 6.

The results of the experiments are set forth in Paragraph 7 of the Knötzl Declaration. As set forth in Tables 3-4 and Figure 1 of Paragraph 7, Trypsin *Fusarium solani* of the patent application in LAS-detergent showed no activity when tested at the same concentrations as those that showed a high level of activity in 0.05 M Tris-buffer. Even at a 10-fold concentration increase of *F. solani* trypsin-like protease, essentially no activity was seen in the presence of LAS-detergent. Knötzl Declaration, Paragraph 7. Therefore, Applicants' claimed protease is not the same as the proteases of the *F. solani* (IFO 5232) of Isono et al.

Moreover, if Applicants' claimed protease was a component of Isono et al.'s material, as the Examiner alleges, Isono et al.'s material would have lost at least some activity in the presence of LAS-detergent, since Applicants' enzyme is not active in LAS-detergent. However, as Isono et al. states, the LAS-detergent does not inhibit any activity of the enzymes produced. Accordingly, whatever it was that Isono et al. assayed, it did not include Applicants' claimed trypsin-like protease.

For all of these reasons, as well as the reasons articulated in Applicants' prior responses (incorporated by reference herein), one of skill in the art would not conclude that the protease produced from *F. solani* (IFO 5232) in Isono et al. is the same as the protease of SEQ ID NO: 2. Thus, Isono et al. does not teach or suggest the pending claims.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 102(b). Applicants respectfully request reconsideration and withdrawal of the rejection.

#### **IV. The Rejection of Claim 60 under 35 U.S.C. 103**

Claim 60 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Isono et al. in view of Hastrup et al., USPN 5,702,934 ("Hastrup et al.") or Okuda et al., US Publication 2004/0002432 ("Okuda et al.") for the reasons of record regarding the rejection of prior claim 44. This rejection is respectfully traversed.

As explained in detail above, Isono et al. does not teach or suggest the claimed proteases.

Hastrup et al. discloses proteases. However, Hastrup et al. does not disclose Applicants' claimed proteases, and does not teach or suggest detergent compositions comprising the proteases of the present invention, either alone or in combination with Isono et al. and/or Okuda et al.

Okuda et al. disclose a detergent composition comprising an alkaline protease and one or more other enzymes. However, Okuda et al. does not teach or suggest detergent compositions comprising the proteases of the present invention, either alone or in combination with Isono et al. and/or Hastrup et al.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 103. Applicants respectfully request reconsideration and withdrawal of the rejection. This rejection is respectfully traversed.

#### **V. Conclusion**

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

All required fees were charged to Novozymes North America, Inc.'s Deposit Account No. 50-1701 at the time of electronic filing. The USPTO is authorized to charge this Deposit Account should any additional fees be due.

Respectfully submitted,

Date: January 21, 2011

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